



U.S. Citizenship
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Services

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JUL 13 2009

FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date:
[EAC 06 259 85942]
[EAC 09 057 52027 – MOTION]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the Vermont Service Center. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center. A subsequent appeal was dismissed by the Chief, Administrative Appeals Office (AAO). The applicant submitted two motions to reopen that were subsequently dismissed by the AAO. The matter is now before the Administrative Appeals Office on a third motion to reopen. The motion to reopen will be dismissed.

The applicant is a native and citizen of Honduras who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The record reveals that the applicant filed his initial TPS application on June 14, 2006, under receipt number EAC 06 259 85942. The Director, Vermont Service Center, denied that application on January 17, 2007, because the applicant failed to establish his continuous residence and continuous physical presence in the United States during the qualifying period and his eligibility to file for late initial registration. On February 9, 2007, the applicant filed an appeal from the denial decision. The Director (now Chief), AAO, dismissed that appeal on September 24, 2007. On October 24, 2007, the applicant submitted a motion to reopen. That motion was dismissed by the AAO on March 19, 2008. A second motion to reopen was submitted by the applicant on April 15, 2008. The AAO dismissed that motion on November 3, 2008.

The applicant filed the current motion to reopen on November 21, 2008.

On motion to reopen, the applicant states that he has been in the United States since 1998 and has provided all of the requested evidence. The applicant also submits non-probative evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period but fails to submit any evidence in an attempt to establish his eligibility for late registration.

A motion to reopen must state the new facts to be proved at the reopened proceeding, and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

The applicant's motion to reopen consists of a statement from the applicant and submission of non-probative evidence. As such, the issue on which the underlying decisions were based has not been overcome on motion.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. That burden has not been met since the applicant has not provided any new facts or additional evidence to overcome the previous decision of the AAO. Accordingly, the motion to reopen will be dismissed and the previous decision of the AAO will not be disturbed.

ORDER: The motion to reopen is dismissed. The previous decision of the AAO is affirmed.